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**FISCAL IMPACT STATEMENT**

**LS 6745**

**BILL NUMBER:** SB 460

**NOTE PREPARED:** Jan 5, 2007

**BILL AMENDED:**

**SUBJECT:** Undertaking for Bail.

**FIRST AUTHOR:** Sen. Bray

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:**

**GENERAL**

**IMPACT:** Local

**DEDICATED**

**FEDERAL**

**Summary of Legislation:** This bill provides that an undertaking for bail expires 36 months after the date it is posted for the release of a defendant from custody if a court does not make an adjudication concerning the defendant during the 36-month period. It also specifies that a surety is not liable on an undertaking that expires after this 36-month period.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:**

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** This bill may result in a potential revenue loss from late surrender fees.

*Background* – An undertaking is not defined in statute but is generally accepted to mean when a court and the bail agent agree that the bail agent will ensure that a criminal defendant who is released under the custody of the bail agent will return for future court appearances. The bail agent posts with the court a bond of a certain amount of money that ensures the defendant's appearance.

Under IC 27-10-2-12, if the court orders the defendant's appearance, the bail agent is obligated to produce the defendant. If the defendant does not appear in court, the bail agent is obligated to pay late surrender fees as a percentage of the bond posted to the court depending on the number of days it takes for the criminal defendant to post the bond.

Under current law, the period of time where a bail agent is obliged to produce the criminal defendant for any court appearances is 36 months. After 36 months, the bail agent is not obliged to produce the criminal defendant for a court appearance except in two circumstances:

- if the bond has already been declared to be forfeited or
- if the defendant is a fugitive from the court after 36 months.

As proposed, this bill would hold harmless bail agents when a defendant is a fugitive and the bail agent was not able to produce the defendant for a court appearance after 36 months.

Revenue from any late surrender fees collected are deposited in the following manner:

- 50% in the police pension trust fund (IC 36-8-10-12) and
- 50% in the county extradition fund (IC 35-33-14).

Local governments reported receiving the following amounts from the Late Surrender Fee between CY 1998 and CY 2005.

Revenue From Late Surrender Fees								
CY	1998	1999	2000	2001	2002	2003	2004	2005
Trial Courts	\$739,321	\$820,023	\$1,041,349	\$588,100	\$580,776	\$526,716	\$749,965	\$368,507
City & Town Courts	10,528	11,665	16,568	128,923	235,834	242,468	360,543	343,089
Total Collected	\$749,849	\$831,688	\$1,057,917	\$717,023	\$816,610	\$769,184	\$1,112,512	\$713,601

**State Agencies Affected:**

**Local Agencies Affected:** Trial courts.

**Information Sources:** *Indiana Judicial Report.*

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